



Entered on Docket  
October 28, 2010

  
Hon. Mike K. Nakagawa  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEVADA

In re: NICOLAS FLORES LOPEZ and  
NORMA LOPEZ

Debtor(s).

BK-09-24748-MKN  
Chapter 13

Date: 9-30-10  
Time: 3:00 p.m.  
Rick A. Yarnall

**ORDER GRANTING MOTION TO VALUE DEBTORS' PRINCIPAL RESIDENCE AND  
AVOID WHOLLY UNSECURED LIEN(S) ENCUMBERING SAME, TO MODIFY THE  
RIGHTS OF LIENHOLDERS AND GRANTING OBJECTION TO LIENHOLDERS'  
PROOF(S) OF CLAIM, IF ANY**

THIS MATTER having come before the Court for a hearing on September 30, 2010, on Debtor's MOTION TO VALUE DEBTORS' PRINCIPAL RESIDENCE AND AVOID WHOLLY UNSECURED LIEN(S) ENCUMBERING SAME, TO MODIFY THE RIGHTS OF LIENHOLDERS AND OBJECTION TO LIENHOLDERS' PROOF(S) OF CLAIM, IF ANY, and based upon the papers and pleadings on file herein, and good cause appearing; the Court finds as follows:

1. The Debtors' principal residence located at 510 Barite Canyon Drive, North Las Vegas, NV 89081 APN: 124-35-414-077 (the "Subject Property") is valued at \$157,905.00 as of the date of Debtor's Chapter 13 Petition.

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1       2.     The Subject Property is collateral for a senior secured claim of GMAC Mortgage,  
2       LLC ("Senior Lienholder").

3       ✓     Senior Lienholder has filed a Proof of Claim number 14 related to such  
4       claim, and such Proof of Claim claims a debt of \$213,126.66. Senior  
5       Lienholder's Proof of Claim indicates that Senior Lienholder has assigned  
6       account # 7067 to this claim.

7       3.     The Subject Property is also collateral for a junior secured claim of Bank of  
8       America ("Junior Lienholder").

9       ✓     Junior Lienholder has *not* filed a Proof of Claim related to its claim, but  
10      has assigned account #4699 to this claim. The Debtor's schedules list the  
11      amount of Junior Lienholder's claims as \$100,313.00.

12      4.     That on the filing date of the instant Chapter 13 petition, the claim represented by  
13      the junior lien was wholly unsecured and may therefore be avoided pursuant to 11  
14      U.S.C. Section 506(a) and §1322(b)(2) upon completion of Debtors' Chapter 13  
15      plan; and

16      5.     Said claim is properly reclassified as non-priority general unsecured claim to be  
17      paid pro rata with other non-priority general unsecured creditors through the  
18      Debtors' Chapter 13 plan; and

19      6.     That it is consistent with the above findings that any claim(s) as identified in  
20      Proofs of Claims filed by Bank of America be modified to non-priority general  
21      unsecured status.

22      IT IS HEREBY ORDERED THAT:

23      1.     The claims represented by the junior lien of Bank of America be and is herewith  
24      avoided and "stripped off" from Debtors' principal residence upon completion of Debtors'  
25      Chapter 13 plan and shall henceforth be treated as a "non-priority general unsecured claim"  
26      pursuant to 11 U.S.C. §506(a)

1        2.        Should Debtor receive a discharge in this case, Junior Lienholder shall as soon as  
2 practicable thereafter take all necessary and appropriate steps to remove its lien of record, and to  
3 ensure that Debtor's title to the Subject Property is clear of any cloud on title related to Junior  
4 Lienholder's claim. This court hereby reserves jurisdiction with respect to any dispute over the  
5 actions necessary to comply with this paragraph; and

6        3.        Should this case be converted to one under another chapter, 11 U.S.C. § 348(f)  
7 shall govern the continued validity of this order; and

8        4.        Should this case be dismissed, 11 U.S.C. § 349(b)(1)-(3) shall govern the  
9 continuing validity of this order; and

10       5.        Bank of America shall retain its claim(s) for the full amount under the loans  
11 referenced above in the event of either dismissal of the Debtors' Chapter 13 case or the  
12 conversion of the Debtors' Chapter 13 case to any other Chapter under the United States  
13 Bankruptcy Code.

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16 **ALTERNATIVE METHOD RE: RULE 9021**

17 In accordance with LR 9021, counsel submitting this document certifies that the order accurately  
18 reflects the court's ruling and that (check one):

19        ☐ The court has waived the requirement set forth in LR 9021 (b)(1).

20        ☐ No party appeared at the hearing or filed an objection to the motion.

21        ☐ I have delivered a copy of this proposed order to all counsel who appeared at  
22 the hearing, and any unrepresented parties who appeared at the hearing, and each  
23 has approved or disapproved the order, or failed to respond, as indicated below  
24 (list each party and whether the party has approved, disapproved, or failed to  
25 respond to the document):  
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1           \_\_X\_\_ I certify that this is a case under Chapter 7 or 13, that I have served a copy  
2           of this order with the motion pursuant to LR 9014 (g), and that no party has  
3           objected to the form or content of the order.  
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6 Submitted By:  
7 CROSBY & ASSOCIATES  
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10 David M. Crosby, Esq.

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